



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/800,080	03/05/2001	Steven J. Schaffer	4675P007	3274

758 7590 06/03/2005

FENWICK & WEST LLP  
SILICON VALLEY CENTER  
801 CALIFORNIA STREET  
MOUNTAIN VIEW, CA 94041

EXAMINER

BAROT, BHARAT

ART UNIT PAPER NUMBER

2155

DATE MAILED: 06/03/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/800,080

Applicant(s)

SCHAFER ET AL.

Examiner

Bharat N. Barot

Art Unit

2155

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 18 January 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 11-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 12-17 is/are allowed.
- 6) ☒ Claim(s) 11 and 18-21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948)                                    | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

**RESPONSE TO AMENDMENT**

1. Claims 11-21 remain for further examination.
2. Applicants' amendments/new claims and arguments/remarks with respect to claims 11-21 filed on January 18, 2005 have been fully considered but they are deemed to be moot in view of the new grounds of rejection.

**Drawings**

3. This application has been filed with informal drawings, which are acceptable for examination purposes only. Formal drawings will be required when the application is allowed.

**Claim Objections**

4. Claims 12 and 16 are objected to because of the following informality:
  - (a) Claim 12 line 3 "time" should be --times--, line 4 "direction" should be --directions--, line 8 QPP is not define, and line 11 "whereby" should be --wherein--.
  - (b) Claim 16 line 3 "time" should be --times--, line 4 "direction" should be --directions--, and preamble is not clear,

Appropriate corrections are required.

**Claim Rejections - 35 USC § 102**

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:  
A person shall be entitled to a patent unless --
  - (e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) do not apply to the examination of this application as the application being examined was not (1) filed on or after November 29, 2000, or (2) voluntarily published under 35 U.S.C. 122(b). Therefore, this application is examined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

6. Claims 11 and 18-21 are rejected under 35 U.S.C. 102(e) as being anticipated by Qin et al (U.S. Patent No. 6,393,480). Qin's patent meets all the limitations for claims 11 and 18-21 recited in the claimed invention.

7. As to claim 11, Qin et al teach a method to analyze network performance, comprising generating a flows report to monitor a given flow, the given flow having one or more frames that are sent from a sending node to a receiving node (abstract and summary of the invention; figures 6-8; column 4 line to column 5 line 40), and the flows report having **one or more** attributes including: a sending/receiving node attribute indicating the sending/receiving node (figures 1-2; and column 5 lines 46-49); a data duration attribute indicating a time period (figures 1-2; and column 5 lines 41-59) and a direction (figures 3-4); a start time attribute and an end data time attribute indicating the times (figures 5A-5B; and column 6 lines 42-67); a bytes attribute indicating a total number of bytes (column 8 lines 47-48); and a frames attribute indicating a number of frames in the flow (column 7 lines 32-37) which is read on the claimed limitations because applicant claimed that the flows report having **one or more** attributes.

8. As to claim 18, Qin et al teach a method of monitoring network performance when executing a task, comprising displaying a first processing time corresponding to a first node in the network (abstract and summary of the invention; figures 6-8; column 4 line to column 5 line 40), the processing time having **one or more** attributes including a processing type having a time period (figures 1-2 and 5A-5B; and column 6 lines 42-67) which is read on the claimed limitations because applicant claimed that the processing type comprising **one of** time period.

9. As to claim 19, Qin et al teach that displaying **one or more** additional processing times, each additional processing time corresponding to an additional node in the network (figures 6-8; and column 4 line 1 to column 5 line 40).

As to claim 20, Qin et al teach that each processing time additionally includes **at least one of the** following attributes: a duration of the processing time (figures 1-2; and column 5 lines 41-59); a start/end time attributes indicating the times (figures 5A-5B; and column 6 lines 42-67); and a start/end frame representing a frame number and a description of the frame (figures 1-2; column 5 lines 41-59; and column 7 lines 12-37) which is read on the claimed limitations because applicant claimed that the processing time additionally includes **at least one of the** following attributes.

10. As to claim 21, it is also rejected for the same reasons set forth to rejecting claims 18-20 above (claim 21 contains similar limitations rejected in the claims 18-20).

**Allowable Subject Matter**

11. Claims 12-17 are allowable over the cited prior art of record.

**Contact Information**

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bharat Barot whose telephone number is (571) 272-3979. The examiner can normally be reached on Monday-Friday from 9:30 AM to 6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ario Etienne, can be reached at (571) 272-4001.

Any inquiry of general nature or relating to the status of this application should be directed to the group receptionist whose telephone number is (703) 305-3900.

Patent Examiner Bharat Barot

Art Unit 2155

May 27, 2005

  
**BHARAT BAROT**  
**PRIMARY EXAMINER**